

11/11/06 1614



TRANSMITTAL LETTER
(General - Patent Pending)

Docket No.
BERN-0082

In Re Application Of: **Eric F. Bernstein**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/533,353	June 16, 2005	Not yet assigned	26259	1614	7199

Title: **Compositions and Methods for Prevention of Photoaging**

COMMISSIONER FOR PATENTS:

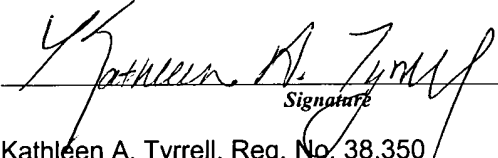
Transmitted herewith is:

- Courtesy Copy of the International Preliminary Examination Report**
- Status Inquiry**
- Return postcard**

in the above identified application.

- ☒ No additional fee is required.
- ☐ A check in the amount of _____ is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. **50-1619** as described below.
 - ☐ Charge the amount of _____
 - ☒ Credit any overpayment.
 - ☒ Charge any additional fee required.
- ☐ Payment by credit card. Form PTO-2038 is attached.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.



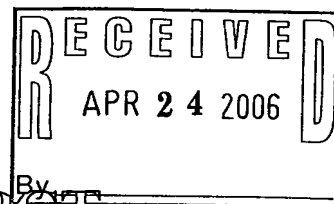
Signature
Kathleen A. Tyrrell, Reg. No. 38,350

Dated: **September 18, 2006**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on September 18, 2006 (Date)	
Signature of Person Mailing Correspondence Mariana Lennox	
Typed or Printed Name of Person Mailing Correspondence	

CC:

PATENT COOPERATION TREATY



From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:
JANE MASSEY LICATA
LICATA & TYRRELL P.C.
66 E MAIN STREET
MARLTON, NJ 08053

By: 

NOTIFICATION OF TRANSMITTAL OF
INTERNATIONAL PRELIMINARY
EXAMINATION REPORT

(PCT Rule 71.1)

Date of Mailing
(day/month/year)

21 APR 2006

Applicant's or agent's file reference

BERN-0071

IMPORTANT NOTIFICATION

International application No.

International filing date (day/month/year)

Priority date (day/month/year)

PCT/US03/34250

29 October 2003 (29.10.2003)

31 October 2002 (31.10.2002)

Applicant

BERNSTEIN, ERIC F.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices)(Article 39(1))(see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

Name and mailing address of the IPEA/US

Mail Stop PCT, Attn: IPEA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Facsimile No. (571) 273-3201

Authorized officer

Sreenivasan Padmanabhan

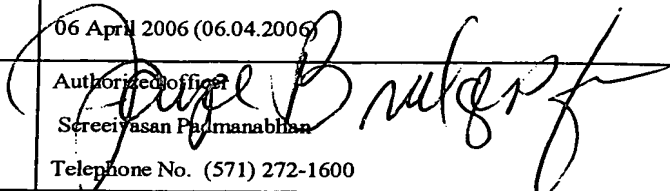
Telephone No. (571) 272-1600

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference BERN-0071	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US03/34250	International filing date (day/month/year) 29 October 2003 (29.10.2003)	Priority date (day/month/year) 31 October 2002 (31.10.2002)
International Patent Classification (IPC) or national classification and IPC IPC: A61K 31/519(2006.01),31/50(2006.01),31/70(2006.01) USPC: 514/262.1,263.1		
Applicant BERNSTEIN, ERIC F.		
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u> </u> sheets.</p> <p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of report with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application 		
Date of submission of the demand 17 May 2004 (17.05.2004)	Date of completion of this report 06 April 2006 (06.04.2006)	
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/ US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201	Authorized officer  Sreejayan Padmanabhan Telephone No. (571) 272-1600	

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US03/34250

I. Basis of the report**1. With regard to the elements of the international application:***

- ☒ the international application as originally filed.
- ☒ the description:
pages 1-6 as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☒ the claims:
pages 7 as originally filed
pages NONE, as amended (together with any statement) under Article 19
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☐ the drawings:
pages NONE as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☐ the sequence listing part of the description:
pages NONE as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/US03/34250**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

Novelty (N)	Claims <u>NONE</u>	YES
	Claims <u>1-7</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-7</u>	NO
Industrial Applicability (IA)	Claims <u>1-7</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Claims 1-6 lack novelty under PCT Article 33(2) as being anticipated by SCHROER (U.S. Patent No. 3,957,994).

SCHROER teach composition comprising theophylline useful in the treatment of inflammation of the skin such as sunburn.

Claim 7 lacks novelty under PCT Article 33(2) as being anticipated by VON VORSTEL et al. (U.S. Patent No. 6,417,170 B2).

VON BORSTEL et al. Teach the composition comprising caffeine either alone or in combination with tanning stimulants have been proposed as "sunless" tanning agents (column 13, lines 50-65).

Claims 1-7 meet the criteria set out in PCT Article 33(4), because a method of protecting humans exposed to sunlight against photoaging and sun burn comprising topically applying to skin of a human a composition comprising caffeine or a compound structurally similar to caffeine in an amount effective to protect the skin against photoaging and sunburn has an industrial applicability in pharmaceutical art.